

of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Sudan will be included as controlled US content for purposes of such license requirements.

(v) Cryptographic, cryptanalytic, and cryptologic items controlled to any destination. These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL.

(vi) Explosives detection equipment controlled under ECCN 2A983.

(vii) “Software” (ECCN 2D983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(viii) “Technology” (ECCN 2E983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(ix) Commercial charges and devices controlled under ECCN 1C992.

(x) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

(xi) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(2) Applications for the export and re-export of all other items described in paragraph (a) of this section, and not described in paragraph (b)(1) of this section, will be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2) of this section, applications for Sudan will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Sudan of items where Sudan was not the intended ultimate destination at the time of original export from the United States, provided that the

exports from the U.S. occurred prior to the applicable contract sanctity date.

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

NOTE TO PARAGRAPH (b) OF THIS SECTION: Applicants who wish any of the factors described in paragraph (b)(4) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Sudan, including its military logistics capability, or could enhance Sudan’s ability to support acts of international terrorism, the appropriate committees of the Congress will be notified 30 days before issuance of a license to export or reexport such items.

(c) *Contract sanctity.* Contract sanctity dates and related licensing information for Sudan are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

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#### § 742.11 Specially designed implements of torture.

(a) *License requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export specially designed implements of torture controlled by 0A983 to all destinations, including Canada.

(b) *Licensing policy.* Applications for such licenses will generally be denied to all destinations.

(c) *Contract sanctity.* The contract sanctity date is November 9, 1995. Contract sanctity will be a factor in considering only applications for export to the NATO countries, Japan, Australia, and New Zealand.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining controls on implements of torture, at this time these controls are maintained only by the United States.

#### § 742.12 High performance computers.

(a) *License and recordkeeping requirements.* (1) This section contains special provisions for exports, reexports, and certain intra-country transfers of high performance computers, including software, and technology. This section affects the following ECCNs: 4A001; 4A002; 4A003; 4D001; 4D002; and 4E001. Licenses are required under this section for ECCNs having an “XP” under “Reason for Control”, unless a License Exception is available (see part 740 of the EAR). Post-shipment verification reporting or Wassenaar reporting may be required when exporting or reexporting “XP” items under the authorization of a License Exception (See 743.1 of the EAR for Wassenaar reporting requirements and paragraph (b)(3)(iv) of this section for post-shipment verification requirements). License requirements reflected in this section are based on particular destinations, end-users, or end-uses. For the calculation of CTP, see the Technical Note that follows the list of ECCNs for Category 4 in the Commerce Control List. Note that License Exception CTP contains restrictions on access by nationals of certain countries, and on reexports and transfers of computers.

(2) In recognition of the strategic and proliferation significance of high performance computers, a license is required for the export or reexport of high performance computers to destinations, end-users, and end-uses, as specified in this section and on the CCL. These license requirements supplement requirements that apply for other control reasons, such as nuclear nonproliferation provided in section

742.3 of the EAR. The license requirements described in this section 742.12 are not reflected on the Country Chart (Supplement No. 1 to part 738 of the EAR). Three Computer Country Tiers have been established for the purposes of these controls. Countries included in Computer Tiers 1 and 3 are listed in License Exception CTP in section 740.7 of the EAR. As of January 19, 2001 there is no longer a Computer Tier 2, and countries that were in Tier 2 are incorporated into Computer Tier 1. Computer Tier 4 consists of Cuba, Iran, Libya, North Korea, Sudan, and Syria.

(3) Exporters must keep accurate records of each export to non-Wassenaar member countries (see Supplement No. 1 to part 743 of the EAR) of a computer with a CTP greater than 75,000 MTOPS. These records must be submitted semiannually to BIS and must contain the information as described in § 743.1 of the EAR.

(b) *Licensing policy.* Licensing policies described in this section vary according to the country of destination, and the end-use or end-user involved in the transaction. Note that in addition, license applications for items covered by § 742.12 will also be reviewed under the nuclear nonproliferation licensing policy in § 742.3(b). In certain cases, licenses may be subject to safeguard conditions. The specific conditions that may be imposed by BIS will depend on the country of destination, and the end-use or end-user of the export. BIS may also require end-use certification which, in appropriate cases, is certified by the government of the importing country. The range of possible safeguard conditions and related information are provided in Supplement No. 3 to part 742.

(1) *Computer Tier 1—(i) License requirement.* No license is required under this § 742.12 for exports or reexports of computers to and among countries listed in Computer Tier 1, for consumption in such countries or other disposition in accordance with the EAR.

(ii) *Licensing policy.* A license is not required under this § 742.12.

(2) [Reserved]

(3) *Computer Tier 3.* (i) *License requirement.* (A) A license is required to export or reexport computers to countries in Computer Tier 3 to nuclear, chemical,